



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:	Cllr David Boothroyd (Cabinet Member for Finance and Council Reform)
Date:	7 June 2022
Classification:	General Release
Title:	9 Woodfield Road London W9 2BA
Wards Affected:	Westbourne
Key Decision:	No
Financial Summary:	<p>Under the terms of the S.106 Agreement the Developer is required to enter into a separate property contract with the Council for the provision of a new Street Sweepers/Cleansing Depot.</p> <p>A financial contribution of £362,247 towards the Westminster Employment Service will be paid by the Developer.</p> <p>Provision and management of the public realm areas within the application site will be carried out by the Developer, saving WCC future expenditure in this regard.</p> <p>The provision of street trees outside of site on adjacent side of Woodfield Road to be paid for by the Developer.</p>
Report of:	Claire Barrett, Director of Corporate Property

1. Executive Summary

- 1.1 The purpose of this Report is to seek approval for the terms of the Deed of Variation which proposes to link the already approved S.106 Agreement to the new planning permission in connection with the above development site. The original S.106 Agreement was negotiated in pursuance to the development scheme under the planning application 19/04487/FULL, of which the approval was granted on the 3rd July 2020. A deed of variation was entered into on 18th August 2020
- 1.2 The need for a Deed of Variation has been triggered by a further planning application made by the Developer, (ref: 21/02892/FULL), which relates to internal design changes, variation of the building heights and an increase in the number of rooms from 286 to 332. Because the Council, in its capacity as freehold landowner, was a party to the original S.106 Agreement, it is also required to be a party to approve any amendments to such agreement. The Deed of Variation simply links the new planning permission to the existing S.106 Agreement and amends plans in relation to the public realm, street trees and events space. This variation does not affect the Council's (as freehold landowner) interests or liability under the terms of the agreement and does not affect the delivery of the key Council landowner benefit being the delivery of a new street sweeper/cleansing depot. Entry into the Deed of Variation does however require approval from the Cabinet Member for Finance and Council Reform as Corporate Property represents the Council as landowner.
- 1.3 This report will also recommend that future deeds of variation, which do not propose to alter the terms of the street sweeper/cleansing depot obligation or the Council's liability (as freehold landowner of the depot site) under the terms of the overarching S.106 agreement, are dealt with at officer level. This is proposed so Cabinet Member approval is not required for straightforward administrative decisions which have no differing implications from the original decision, with a view to efficient decision making and the appropriate use of resources.

2. Recommendations

- 2.1 That the Cabinet Member for Finance and Council Reform approve the terms of the Deed of Variation to the S.106 Agreement and authorises that the Council, as freehold owner of the depot site, enter into this agreement.
- 2.2 That the Cabinet Member for Finance and Council Reform delegate authority to the Executive Director of Finance and Resources to authorise entry into any future deeds of variation to this S.106 Agreement save for instances which propose to alter the terms the street sweeper/cleansing depot or which affect the Council's liability (as freehold landowner of the depot site) under the overarching S.106 Agreement.

3. Reasons for Decision

- 3.1 The S.106 Agreement had been entered into by both WCC as landowner and WCC as the Local Planning Authority. The Local Planning Authority's authority to enter into the agreement derives from the Planning Applications Sub-Committee resolving to approve the planning permission. WCC as landowner, requires a separate Cabinet Member approval to amend the terms of this S.106 Agreement.
- 3.2 The Developer submitted the Section 73 Application to the City Council on 30th April 2021 and the parties have agreed that a Deed of Variation should be entered into in order to vary the S106 Agreement, on the terms set out in this report.
- 3.3 The other parties to the S.106 Agreement, namely, L.T.D.A (Enterprises) Limited and Computer Cab PLC consent to the Developer entering into this Deed for the purposes of carrying out the Development pursuant to the Planning Permission.
- 3.4 The original planning application to the City Council under reference number 19/04487/FULL was granted on the 3rd July 2020. It allows for the demolition of existing buildings and structures and the construction of a new mixed-use development comprising hotel and associated facilities (Class C1), flexible workspace (Class B1a / B1c), retail and food and beverage (Class A1 / A3),

events space (Sui Generis) and a replacement street cleaning depot (Sui Generis), with associated new public realm and highways improvements.

- 3.5 The original S106 Agreement is dated 3rd July 2020 and is between L.T.D.A. (Enterprises) Limited, Computer Cab PLC, The Collective (Taxi House) Limited, The Lord Mayor and the Citizens of the City of Westminster (as landowner) and The Lord Mayor and the Citizens of the City of Westminster (as the local planning authority);
- 3.6 An engrossment version of the proposed Deed of Variation is appended to this Report at Appendix II which annexes the original S.106 Agreement and the subsequent deed of variation in full at its own Appendix II.
- 3.7 Full terms of the proposed variation can be reviewed at clause 3 of the engrossment version and the terms of the original s.106 Agreement at Appendix II.

4. Context

- 4.1 Westminster City Council own the freehold of 9 Woodfield Road London W9 2BA, which accommodates an operational depot.

A development company, The Collective (Taxi House) Ltd have proposed a redevelopment of this site (as part of a wider development proposal), plus the two adjoining sites to create a 289-bed hotel, 12,600 sq ft of offices and 3,700 sq ft of restaurant/bar facilities.

The proposed development includes a new depot for the Council totalling 491 sq m/5,285 sq ft, (arranged in the basement and the ground floor, beneath the 5 storeys of the proposed hotel). This proposed new depot is to be approximately double the size of the existing depot situated on the same road.

The details of the planning application are as follows:

Demolition of existing buildings and structures and construction of a mixed-use development comprising hotel and associated facilities (Class C1), flexible workspace (Class B1a/ B1c), retail and food and beverage

(Class A1/A3), events space (Sui Generis) with associated public realm and highways improvements. (site includes Taxi House, Waterside House and Westminster Street Sweepers Depot).

Property Location

- 4.2 The property is located on the south side of Woodfield Road and some 100 metres to the south of the Harrow Road (A404), with the Great Western Road being approximately 150 metres to the West. The immediate area is dominated by industrial uses, with offices and residential uses located along the streets off Woodfield Road. Westbourne Park Underground Station is located nearby, and this station provides regular services along the Circle and Hammersmith and City lines.
- 4.3 Woodfield Road comprises a mixed-use location which, due to the fringe City Centre position, has become subject to redevelopment from the former industrial area to a more commercial setting, with the proposed redevelopment scheme for the site being of mixed-use retail/office and leisure.

Property Description

- 4.4 The existing street cleaning depot comprises a single storey Victorian era warehouse which is of a traditional brick construction with a pitched tiled roof. The site is bordered by cast iron railings and the site area of the property asset is approximately 0.02 hectares (0.05 acres). The approximate total Gross Internal Floor Area (GIA), of the Building is 208.3 sq m/ 2,243 sq ft.

5. Financial Implications

- 5.1 The Council will be receiving a new modern Street Cleaners depot with a build cost of approximately £1,100,000 as part of this S.106 Agreement. (Please note that these costs of construction have been verified by a Quantity Surveyor).

- 5.2 A financial contribution of £362,247 towards the Westminster Employment Service will be paid by the Developer.
- 5.3 Provision and management of the public realm areas within the application site will be carried out by the Developer, saving WCC future expenditure in this regard.
- 5.4 The provision of street trees outside of the site and on the adjacent side of Woodfield Road to be paid for by the Developer.

6. Legal Implications

- 6.1 The obligations of a S.106 Agreement bind both to the planning permission and to the land to be developed. The obligations will “run with the land” meaning that future owners or persons taking a lease will take the obligations subject to the relevant obligations. As the Council own that part of the development site shown for illustrative purposes shaded blue on the “The Existing Site Assembly” plan above, it is required by the Council (as Local Planning Authority) that the Council (as landowner) enter into the S.106 Agreement to bind the obligations to its freehold title.
- 6.2 The proposed Deed of Variation links the new planning permission to the terms of the S.106 Agreement as outlined above. Because the Council (as landowner) was a party to the original deed, any variation to its terms also requires it to be a party. For the avoidance of doubt, the new obligation does not impact upon the Council’s liability, interest in the land or the street sweeper/cleansing depot obligation. Entry into the agreement therefore does not pose a legal risk to the Council as landowner (beyond the terms as set out under the original S.106 agreement).

7. Carbon Impact

- 7.1 N/A – has already been assessed as part of the consented scheme.

8. Staffing Implications

- 8.1 None

9. Consultation

9.1 Ward Councillors were notified of the matter by email on 18 May 2022.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:
Rupert Grass, rgrass@westminster.gov.uk 07809 826558

List of appendices:

Appendix 1 - Other Implications

Appendix 2 - Engrossment Version Deed of Variation (Appendix 1 of the Deed of Variation contains the Original S.106 Agreement)

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member** Cllr David Boothroyd (Cabinet Member for Finance and Council Reform)

Declaration of Interest

I have no interest to declare in respect of this report

Signed:  Date: 7 June 2022

NAME: **Councillor David Boothroyd**

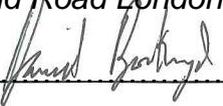
State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled

9 Woodfield Road London W9 2BA.

Signed .....

Cabinet Member for Finance and Council Reform

Date ...7 June 2022.....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, the Executive Director of Finance and Resources, and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.